

SENATE BILL 1634

By Norris

AN ACT to amend Tennessee Code Annotated, Title 45, Chapter 6, relative to the issuance of subpoenas for fingerprints under the Pawnbrokers Act of 1988.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 45-6-222(d)(1), is amended by deleting the subdivision and substituting instead the following language:

(1) Upon preparing the affidavit, the law enforcement officer shall submit it to a magistrate, as defined in § 40-1-106. The magistrate shall examine the affidavit and may examine the affiants under oath. The magistrate may grant the request for a subpoena to produce the thumbprint requested if the magistrate finds that the affiants have presented a reasonable basis for believing that:

(A) A specific criminal offense has been committed or is being committed;

(B) Production of the requested thumbprint will materially assist law enforcement in the establishment or investigation of such offense;

(C) There exists a clear and logical nexus between the thumbprint requested and the offense committed or being committed; and

(D) The scope of the request is not unreasonably broad or the thumbprint unduly burdensome to produce.

SECTION 2. Tennessee Code Annotated, Section 45-6-222(d)(2), is amended by deleting the language "judge" wherever it appears and substituting instead the language "magistrate".

SECTION 3. Tennessee Code Annotated, Section 45-6-222(e), is amended by deleting the language “court” in the first sentence and substituting instead the language “magistrate’s office” and is further amended by deleting the language “judge” and substituting instead the language “magistrate”.

SECTION 4. Tennessee Code Annotated, Section 45-6-222(f), is amended by deleting the subsection and substituting instead the following language:

(f) A subpoena granted pursuant to this section by a magistrate of a court of record shall issue to any part of the state and shall command the pawnbroker to whom it is directed to produce any thumbprint that is specified in such subpoena to the law enforcement officer and at such reasonable time and place as is designated in the subpoena. A subpoena granted pursuant to this section by any other magistrate shall in all respects be like a subpoena granted by the magistrate of a court of record but shall issue only within the county in which such magistrate has jurisdiction. The magistrate shall prepare or cause to be prepared the subpoena and it shall describe the specific thumbprint requested and set forth the date and manner it is to be delivered to the officer.

SECTION 5. Tennessee Code Annotated, Section 45-6-222(g), is amended by deleting the language “judge of a general sessions court” and substituting instead the language “any other magistrate” and is further amended by deleting the language “judge” wherever it appears and substituting instead the language “magistrate”.

SECTION 6. Tennessee Code Annotated, Section 45-6-222(h), is amended by deleting the language “court” wherever it appears and substituting instead the language “magistrate”.

SECTION 7. Tennessee Code Annotated, Section 45-6-222(j), is amended by deleting the language “judge” and substituting instead the language “magistrate” and is further amended by deleting the language “court” and substituting instead the language “magistrate”.

SECTION 8. This act shall take effect July 1, 2005, the public welfare requiring it.